

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KRAFT FOODS GLOBAL, INC., THE)	
KELLOGG COMPANY, GENERAL)	
MILLS, INC., and NESTLÉ USA,)	
INC.,)	
)	No. 1:11-cv-08808
Plaintiffs,)	
)	Judge Charles R. Norgle
v.)	
)	
UNITED EGG PRODUCERS, INC.,)	
UNITED STATES EGG)	
MARKETERS, INC., CAL-MAINE)	
FOODS, INC., MICHAEL FOODS)	
INC., and ROSE ACRE FARMS, INC.)	
)	
Defendants.)	

[PROPOSED] TRIAL STIPULATIONS 12-15 AND ORDER

WHEREAS the Parties have continued to engage in meet-and-confers regarding additional Stipulations; and

WHEREAS the Parties having reached agreement on these issues, the Court enters an Order as follows:

Stipulation #12

The Parties shall not affirmatively seek to designate and introduce deposition or trial testimony of witnesses within their control as current officers, current employees, or current agents of that party.

Stipulation #13

Plaintiffs have represented to Defendants that Plaintiffs may offer in Plaintiffs' case in chief the prior trial testimony of Marcus Rust and the prior trial

testimony of Gregory Hinton, who are under Rose Acre's control, both of whom Defendant Rose Acre intend to call live in their case.

With respect to prior trial testimony of Mr. Rust or Mr. Hinton from the DPP trial, Plaintiffs agree that such prior trial testimony is not admissible against Defendants United Egg Producers, United States Egg Marketers, and Cal-Maine.

With respect to prior trial testimony of Mr. Rust or Mr. Hinton from the DAP trial, Plaintiffs agree that such prior trial testimony is not admissible against Defendants United Egg Producers, United States Egg Marketers, and Cal-Maine if used in Plaintiffs' case in chief. Such prior trial testimony may be admissible against Defendants United Egg Producers and United States Egg Marketers if used for impeachment purposes.

Defendants United Egg Producers, United States Egg Marketers, and Cal-Maine reserve their rights to seek additional relief regarding such prior trial testimony.

Stipulation #14

Defendants agree to withdraw without prejudice Motion *in Limine* for One Appearance Per Witness Testifying Live (Docket Entry 166) based on Plaintiffs' representation that Plaintiffs only plan on calling live Dolph Baker, who is employed by Defendant Cal-Maine.

The Parties have agreed that Defendants may question Mr. Baker, to the extent the testimony is relevant and admissible, about topics outside the scope of Plaintiffs' direct examination if Defendants' questioning is conducted in a non-leading

fashion. Defendants will not object to Plaintiffs questioning Mr. Baker in a leading fashion.

In the unlikely event that Plaintiffs determine that they need the live testimony of another available employee of Defendants, Defendants will be allowed to refile their motion *in limine* and have it decided in advance of any additional employee testifying live.

Stipulation #15

Defendants agree to withdraw without prejudice Motion *in Limine* to Bar Articles and Books for the Truth of the Matter Asserted (Docket Entry 165) based on Plaintiffs' decision to withdraw all articles and books with the exception of *United Voices* newsletters. The Parties agree that Plaintiffs will have to establish admissibility separately for each *United Voices* that Plaintiffs seek to admit.

This Stipulation does not resolve Defendants' Motion *in Limine* to Exclude Prior Complaints, Investigations, and Settlements (Docket Entry 169), which addresses admissibility of a *Wall Street Journal* article related to a federal investigation.

IT IS SO ORDERED.

BY THE COURT:

Dated: _____

Charles R. Norgle
United States District Judge

September 19, 2022

Respectfully submitted:

Counsel for Plaintiffs Kraft Foods Global, Inc., General Mills, Inc., Nestlé USA, Inc. and The Kellogg Company

/s/ Brandon D. Fox

James T. Malysiak
(jmalysiak@jenner.com)
Terrence J. Truax (ttruax@jenner.com)
Joel T. Pelz (jpelz@jenner.com)
Angela M. Allen (aallen@jenner.com)
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654-3456
Tel: (312) 222-9350
Fax: (312) 527-0484

Brandon D. Fox
Amy M. Gallegos (*admitted pro hac vice*)
JENNER & BLOCK LLP
515 South Flower
Suite 3300
Los Angeles, CA
90071
Tel: (213) 239-5100
Fax: (213) 239-5199
bfox@jenner.com
agallegos@jenner.com

Counsel for Defendant Rose Acre Farms, Inc.

/s/ Donald M. Barnes

Donald M. Barnes
(dbarnes@porterwright.com)
Jay L. Levine
(jlevine@porterwright.com)
PORTER, WRIGHT, MORRIS &
ARTHUR LLP
2020 K. Street, N.W., Suite 600
Washington, D.C. 20006-1110
Tel: (202) 778-3000

James A. King (jking@porterwright.com)
Allen T. Carter
(acarter@porterwright.com)
PORTER, WRIGHT, MORRIS &
ARTHUR LLP
41 South High Street, Suite 2900
Columbus, OH 43215
Tel: (614) 227-2000

Counsel for Defendant Cal-Maine Foods, Inc.

/s/ Patrick M. Otlewski

Patrick M. Collins (pcollins@kslaw.com)
Livia M. Kiser (lkiser@kslaw.com)
Patrick Otlewski (potlewski@kslaw.com)
Abigail Hoverman Terry
(aterry@kslaw.com)
KING & SPALDING LLP
110 North Wacker Drive, 38th Floor
Chicago, IL 60606
Tel: (312) 995-6333

Lohr Beck (lohr.beck@kslaw.com)
(pro hac vice)
Andrew Chinsky (achinsky@kslaw.com)
KING & SPALDING LLP
1180 Peachtree Street, NE, Suite 1600
Atlanta, GA 30309

Tel: (404) 572-2812

Brian E. Robison
(brian@brownfoxlaw.com)
(pro hac vice)
BROWN FOX PLLC
6303 Cowboys Way, Suite 450
Frisco, TX 75034
Tel: (972) 707-2809

***Counsel for Defendants United Egg
Producers, Inc., and United States
Egg Marketers, Inc.***

/s/ Robin P. Sumner
Robin P. Sumner
(robin.sumner@troutman.com)
Kaitlin L. Meola
(kaitlin.meola@troutman.com)
TROUTMAN PEPPER HAMILTON
SANDERS LLP
3000 Two Logan Square, 18th and Arch
Streets
Philadelphia, PA 19103-2799
Tel: (215) 981-4000

Whitney R. Redding
(whitney.redding@troutman.com)
TROUTMAN PEPPER HAMILTON
SANDERS LLP
Union Trust Building
501 Grant Street, Suite 300
Pittsburgh, PA 15219-4429
Tel: (412) 454-5085

Robert E. Browne, Jr.
(robert.browne@troutman.com)
TROUTMAN PEPPER HAMILTON
SANDERS LLP
227 West Monroe Street, Suite 3900
Chicago, IL 60606
Tel: (312) 759-1923